



- CITY OF BIGGS -
PLANNING DEPARTMENT STAFF REPORT

465 C Street /
P.O. Box 1134
Biggs, CA 95917

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DATE: June 12, 2012
TO: Honorable Mayor and Members of the City Council
FROM: Scott Friend, AICP City Planner
SUBJECT: City of Biggs / Butte County Building Services Contract

Report Summary:

Staff is recommending that the City Council approve a contract with Butte County to provide building department services (building plans review, permitting, inspection and building code interpretation) to the City of Biggs on a contractual basis.

Background - General:

The City of Biggs has utilized the services of the Building Division of the Butte County Development Services Department for building plan check and building permit issuance for many years. Within the current development review and approval process, the City of Biggs is responsible for the review and approval of *all* development applications and is responsible for the approval and inspection of all site development and preparation work (grading, storm drainage, utilities, streets and street improvements) and approval and implementation of all local City development standards and development review programs (driveway access locations, parking standards, landscaping, design review, etc.). The Butte County Building Division is responsible for the review of all structural and building plans (vertical construction elements), issuance of building permits, and is responsible for all building permit related inspections. The County does not have any roll in the City's regulatory land use program or any land use authority within the City of Biggs.

The current development review and approval process in the City is generally summarized as follows:

1. Applicant submits a land use or development application to the City of Biggs;
2. City staff reviews the application and support materials and either takes an action on the application (if acted upon at the staff level) or makes a recommendation to the City Council for a decision on the application;
3. *Following* the approval of an application requiring a building permit by the City, applicants submit building plans to the Butte County Building Division for plans review and building permit issuance;
4. The City of Biggs undertakes the review and approval of all site development and sub-grade improvement inspections and approvals;
5. Upon approval of the building plans and issuance of a building permit (following authorization by the City to issue a permit(s), the County undertakes the necessary building-related inspections and finalizes the project.

6. The City undertakes a final inspection of the finished project and signs the project off as being complete.

Within this process, all development application fees paid by project applicants are retained by the City to cover costs associated with the processing of applications and all building plans review and building permit fees are retained by the County to cover building plan check and inspection services.

Discussion – General:

As indicated above, this general development process has been utilized for many years and has allowed the City the ability to retain building plans review, permitting and inspection services without the need to offer that service via a private services contract or using in-house staff.

In 2010, the City of Biggs approached the County to discuss how the County could assist the City with the process of inspecting sub-standard and/or dilapidated buildings in the City. At that time, it was determined that neither the City nor the County could determine if a formal contract was ever approved by either party for the services being rendered. Based upon that determination and a further unsuccessful search for an approved contract, it was agreed upon that by both parties that a formal contract for the service was in the mutual best interest of both parties.

As presented, the proposed contract does not alter the current relationship or process between the two parties and the current development review process, service responsibilities and service cost approach remain the same with the following modifications and/or conditions:

- Contract Term: The term of the proposed contract is through June 30, 2015. *This is the maximum length of time that the County allows for service contracts. The contract will periodically need to be renewed by both parties to allow for the continuation of services;*
- City Requested Building Inspection Services: The draft Contract allows for the County to provide services not directly-related to plans review and building permit issuance, as requested by the City, for services to include the inspection of sub-standard and/or dilapidated buildings and building code advisement services. This service would be offered to the City at the standard hourly charge-out rate for a County building inspector and would be billed to the City directly;
- CASP Certification: The draft Contract allows the City to offer CASP (Certified Access Specialist) services as required by State law (SB 1608 and Federal ADA requirements);
- County Development Impact Fees: The draft Contract incorporates language indicating that the City of Biggs supports the idea that certain county-wide development impact fee would be assessed to City development applications upon the signing of similar agreements with the cities of Oroville and Gridley. *This provision would not occur unless and until such time as both the cities of Oroville and Gridley agree to such and would not occur until a subsequent approval by the Biggs City Council was made.*
- Expedited Plans Review: The draft Contract provides for a process whereby an expedited plans review and inspection process is available to City and County applicants for an additional fee. *Pursuant to a determination by the County's legal counsel, it has been determined that the County cannot give preferential treatment to either City or County applications resulting in expedited processing in the absence of a fee to cover the additional staff time necessary to advance the timing of the review.*

Fiscal Impact:

As noted above, the proposed contract does not change or otherwise modify the existing fee for service structure of the existing process. Thus, the City would not incur any new or additional costs for this service. However it is noted that if the City specifically requests building inspection, building code

interpretation or CASP services from the County, the City would be charged an hourly fee of \$129/hr for the provision of the requested service.

Public Comment/Input:

None Received.

Staff Recommendation:

Staff recommends that the City Council approve the draft Contract between the City of Biggs and the County of Butte for Building Services as presented.

Attachment:

Attachment A - Draft Building Services Contract

REVENUE CONTRACT

This Contract, dated as of the last date executed by the Parties hereto is between the CITY Of Biggs, California, a municipal corporation identified below in the Variable Information Table hereinafter referred to as "CITY" and County of Butte, a political subdivision of the State of California, hereinafter referred to as "COUNTY."

| | | | | | | |
|---|-------------------------|---|---|-----------------------------------|------------------------|-----------------------|
| VARIABLE INFORMATION TABLE | | | | | | R |
| Term of This Contract (Complete Dates in Just One of the Following Two Rows) | | | | | | |
| <input checked="" type="checkbox"/> | Term Begins | | | Term Completion Date | | |
| Below | | | | | | |
| On Following Date | | | June 18, 2012 | | Through Following Date | |
| Upon Last Date Executed by Agency | | | June 30, 2015 | | | |
| | | | Calendar Days Following Execution of Contract by Agency | | | |
| Project Name | | Agreement For Professional Building Services Between - CITY Of Biggs | | Fiscal Year(s) | | 2011-2015 |
| Terms | | Basis of Price (Do Not <input checked="" type="checkbox"/> More Than One of the Following Four Blocks) | | | | |
| Price | OTHER see scope of work | | Fixed Price | Annual Price | Monthly Price | Hourly Rate |
| Not-to-Exceed Price | | <input checked="" type="checkbox"/> if Reasonable Expenses are authorized in addition to Hourly Rate | | | | |
| CITY Contact Information | | | | COUNTY Contact Information | | |
| Project Manager | | City Administrator | | Project Manager | | Nancy Springer, BDM |
| Agency | | City of Biggs | | Department | | Development Services |
| Address | | 465 C Street / P.O. Box 307 | | Address | | 7 County Center Drive |
| CITY, State & ZIP | | Biggs, CA 95917 | | CITY, State & ZIP | | Oroville, CA 95965 |
| Telephone | | (530) 868-0100 | | Telephone | | (530) 538-6861 |

WHEREAS, CITY desires to retain services including but not limited to the performance of building plan checks and inspections; and

WHEREAS, the COUNTY possesses the skill, experience, ability, background, certification, knowledge and is specially trained to complete services including but not limited to building plan checks and inspections;

NOW THEREFORE BE IT AGREED between the parties to this Contract that this Contract is subject to the provisions contained in the following attachments which are made a part of this Contract. Should there be any conflicts between this Contract and the attachments that are incorporated herein, precedence shall first be given to the provisions of this Contract followed by the attachments, in descending order, as indicated below:

- Attachment I – Terms and Conditions
- Attachment II – Scope of Work

This Contract and the above listed Attachments represent the entire undertaking between the parties.

CITY

COUNTY

By _____
 Roger L. Frith, Mayor
 City of Biggs

By _____
 Nancy Weston
 Contracts Manager

By _____
 REVIEWED AS TO FORM
 GREGORY EINHORN
 CITY OF BIGGS LEGAL COUNSEL

By _____
 REVIEWED AS TO FORM
 BRUCE S. ALPERT
 BUTTE COUNTY COUNSEL

By _____
 REVIEWED FOR FISCAL CONTROL,
 Butte County Contracts Division, GSD

**ATTACHMENT II
SCOPE OF WORK**

DUTIES OF THE COUNTY

1. COUNTY shall perform:

- a. Building permit application, building permit fee collection, plan review and inspection for building permits which are required and signed-off by the CITY, based upon current adopted COUNTY building permit fees in accordance with the latest adopted Chapter 3, Article IV § 3-40 through 3-41 of the Butte County Ordinance .
- b. Building Code Enforcement provided shall be at the COUNTY'S hourly rate in accordance with the latest adopted building permit fees per Chapter 3, Article IV § 3-40 through 3-41 of the Butte County Ordinance. Building Code Enforcement for identification of sub-standard or uninhabitable buildings and structures, shall be at the written request of CITY. COUNTY shall report findings to CITY and, upon receipt of written direction from the CITY and as determined to be necessary; COUNTY shall follow-up with any related actions relative to that determination.
- c. Court testimony as requested in writing (and/or via subpoena). COUNTY shall notify CITY upon receipt of any subpoena.
- d. Retention, reporting and maintenance of records.
- e. Provide California Accessibility Specialist (CASP) in accordance with California State law. COUNTY may use outside contract consultant as needed.
- f. County shall not issue a final Certificate of Occupancy (CofO) until such time as the City of Biggs signs off that all CITY requirements have been satisfied.

2. Other Services. At any time during the term of this Agreement, CITY may request that COUNTY perform Other Services.

- a. As used herein, "Other Services" means any work which the parties did not reasonably anticipate would be necessary at the execution of this Agreement and therefore are not delineated in this agreement.
- b. Other Services shall be charged to the CITY at an hourly rate in accordance with the latest adopted Chapter 3, Article IV § 3-40 through 3-41 of the Butte County Ordinance (see also compensation below).
- c. COUNTY shall not perform, nor be compensated for, other Services without prior written authorization from CITY. No statement herein shall preclude the execution of a separate contract for Other Services.

3. COUNTY's Books, Records and Reports.

- a. COUNTY shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, expenditures and disbursements charged to CITY permit applicants for a minimum period of two (2) years, or for any longer period required by law, from the date of final payment to COUNTY to this Agreement.
- b. COUNTY shall maintain all documents and records which demonstrate performance under this Agreement for a minimum of two (2) years, or for any longer period as required by law, from the date of termination or completion of this Agreement.

- c. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during COUNTY's regular business hours, upon written request by CITY. Records shall be available at COUNTY's address indicated for receipt of notices in this Agreement. If the documents requested by the CITY are available in an electronic format, the COUNTY shall provide such documents to the CITY via electronic delivery methods if requested.
 - d. Where CITY has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of COUNTY's business, CITY may, by written request, require that custody of the records be given to the CITY and that the records and documents be maintained by CITY.
 - e. COUNTY shall, at COUNTY's expense, provide standard electronic permit system monthly activity reports which include permit information as to type, sub-type, number of permits issued, valuation and fees charged.
 - e. COUNTY shall provide copies of available plans, studies, documents, and other writings to CITY within ten (10) business days upon receipt of a written request by CITY.
4. **Standard of Review.** The COUNTY shall process all CITY building permit applications in a manner and timeframe substantially consistent with the manner and timeframes provided for COUNTY building permit applications. The COUNTY shall not systematically prioritize either COUNTY or CITY building permit applications to the detriment of the timely review of the other.
5. **Expedited Services.** The CITY or COUNTY may determine that a specific project represents a "high-priority" project providing the potential to result in revenue enhancement or measureable job creation whereby the assignment of a priority for expediting a project may be provided. In the event that it is determined by the CITY that a project of "high-priority" exists, the CITY shall notify the COUNTY in writing of such a determination and the COUNTY agrees to prioritize the review of the project application acknowledging the limitations of staff resources, expertise and/or existing contractual obligation. CITY acknowledges there is an Expedited Plan Check Fee as well as After Hours (Scheduled) Call-Out Fee that if required be charged the CITY for expedited plan check and any expedited inspections that cause COUNTY employees to work beyond their normally scheduled hours.

DUTIES OF THE CITY

1. CITY shall provide:

- a. **CITY Site Plan Approval and Sign-Off:** Prior to applying to the COUNTY for a building permit, applicants shall provide a complete site plan to the CITY to determine consistency with CITY codes. The site plan shall be reviewed by CITY planning and engineering staff and meet all requirements of BMC 11.10.020 (Site plan review procedure). CITY shall provide applicant a sign-off from the CITY that they have either completed the appropriate site plan review or design review procedures as required per BMC 14.30.090 (Design review required) or the review is not required. Prior to application to the COUNTY for a building permit, applicants shall provide this sign-off to COUNTY
- b. **CITY Notification on Completion and Sign-Off:** Prior to final inspection of new construction projects by the COUNTY, the applicant shall notify the CITY that project construction is complete and meet all requirements of BMC 11.10.040 (Inspection of new construction). CITY shall provide COUNTY documentation of CITY's sign-off that applicant has met this requirement in order for COUNTY to conduct final inspection.
- c. **CITY Written Request:** CITY shall provide written request to COUNTY for copies of plans, studies, documents and/or other written records.

COMPENSATION AND METHOD OF PAYMENT

1. For the performance of building application, plan review and inspection services, COUNTY shall charge and retain the permit applicant fees in accordance with Chapter 3, Article IV § 3-40 through 3-41 of the Butte County Ordinance.
2. The CITY agrees in principal to allow the COUNTY to collect Countywide Impact Fees (CIF) upon the issuance of approved CITY Building Permit applications for uses or structures generating a new service impact, at such time as the cities of Oroville and Gridley also agree to allow, and begin to collect, the COUNTY CIF on Building Permit applicants in those cities. A separate agreement will be brought forward at that time for approval by the CITY Council to implement this provision.
3. Other requested services provided by COUNTY to CITY shall be invoiced according to the most currently adopted county wide Development Services Department Processing Fees. Additional costs borne by the COUNTY for services provided at the request of CITY, for which the COUNTY would normally charge, which and are not covered by applicant fees shall be invoiced to the CITY (i.e, charges for copies of plans, documents, writings, etc.) Other inspection, documentation, report writing services shall be charged at the current Building Division hourly rate. CITY acknowledges that these fees are adjusted by the County Board of Supervisors periodically by resolution.
4. CITY shall compensate COUNTY monthly in arrears for requested services provided, that are not covered by permitting fees paid by building permit applicants. COUNTY shall bill CITY by submitting a monthly invoice which shall contain the following information: the service dates, service provided, time duration of services, multiplied by the hourly building division rate or fee schedule charge, additional charges for services (copies of plans, etc., called out specifically in the current fee schedule), and total charges.
5. Charges at the Building Division's hourly rate shall begin from the time the COUNTY staff delivering the service leaves the COUNTY offices in Oroville, California and begins to travel to a CITY job site, work while on-site at CITY job(s) as well as time needed for follow-up to document, report and/or consult with supervisor/management regarding CITY jobs. The CITY shall not be charged for travel time incurred by COUNTY staff resulting from travel originating at locations other than the COUNTY'S offices in Oroville or a closer location. Time spent by supervisory/management staff related to hourly rate work shall also be charged to the CITY.
6. It is not intended for COUNTY to subsidize the cost of any service to the CITY, but to remain fiscally whole in the delivery of services to CITY. Therefore, applicable charges for services shall be invoiced to CITY for all services, copies, etc., that would normally be charged to the public that are not covered by the fees paid by a permit applicant.

TABLE OF COMPENSATION

| SERVICES PROVIDED | FEES As adopted by ORDINANCE |
|---|--|
| Inspection Services and After Hours (Scheduled) Call-Outs | Building Division Fee Schedule Article IV 3- 41 Ord. No. 4001, § 8, 3-24-09) |
| Plan Check Services and Expedited Plan Check Services | Building Division Fee Schedule Article IV 3- 41 Ord. No. 4001, § 8, 3-24-09) |
| Permit Center/ Administrative Services | Building Division Fee Schedule Article IV 3- 41 Ord. No. 4001, § 8, 3-24-09) |
| Other Services: Code Enforcement | Hourly fee based upon current adopted fees per Butte County Code Article IV- 3-41 Ord. No. 4001, § 8, 3-24-09) |

**ATTACHMENT I
TERMS AND CONDITIONS**

1. **Scope of Work.** The work to be undertaken is identified in the attached "Attachment II – Scope of Work" which is made a part of this Contract. All payments are due to the COUNTY within 30 days of receipt of invoice.
2. **Reimbursement.** The work shall be performed for the Fixed Price, Annual Price, Monthly Price or Hourly Rate as indicated in the variable information table, but shall not exceed the Not-to-Exceed Price if included in the variable information table. Reasonable expenses are authorized in addition to the Hourly Rate if both the Hourly Rate block and the block authorizing Reasonable Expenses are checked in the variable information table. Payment shall be made after the CITY reviews and approves the work and after submittal of an invoice by the COUNTY.
3. **COUNTY Project Manager.** The COUNTY project manager or designee for this undertaking who will receive payment invoices and answer questions related to the coordination of this undertaking is identified above in the variable information table.
4. **Independent Contractor.** COUNTY employees shall not be considered as employees of the CITY. COUNTY employees shall work under COUNTY supervision and direction and are not representatives or employees of the CITY.
5. **Confidentiality and Ownership of Documents.** All plans, studies, documents and other writings prepared by the COUNTY for CITY projects and located within the CITY, in the course of implementing this Agreement, except working notes and internal documents, shall become the joint property of the COUNTY and CITY, and the COUNTY shall have the right to use such materials at its discretion. The COUNTY shall maintain the confidentiality of all CITY records and information, including, but not limited to HIPAA, and all other applicable COUNTY, State, and Federal laws, ordinances, rules, regulations, manuals, guidelines, and directives, relating to privacy/security, whichever is most restrictive. COUNTY shall require all its officers, employees, and agents providing services hereunder to acknowledge, in writing, the understanding of, and agreement to fully comply with, all such confidentiality provisions. COUNTY shall indemnify and hold harmless CITY, its officers, employees, and agents, from and against any and all loss damage liability, and expenses arising from any disclosure of such records and information by COUNTY, its officers, employees, or agents.
6. **Termination.** This Contract may be terminated by either the CITY or the COUNTY by a thirty day written notice. Authorized costs incurred by the COUNTY will be reimbursed by the CITY up to the date of termination. Notwithstanding anything stated to the contrary herein, this Contract shall expire on the Completion Date indicated in the above Variable Information Table unless the Completion Date is modified by written amendment to this Contract. The CITY may terminate the Contract immediately upon service notice to the COUNTY if the COUNTY is found to not be in compliance with any section of this Contract.
7. **Mutual Hold Harmless.** It is agreed that the COUNTY shall defend, hold harmless and indemnify CITY, its officers and employees from any and all claims for injuries or damage to persons and/or property which arise out of the terms and conditions of this contract and which result from the negligent acts or omissions of the COUNTY, its officers and/or employees.

It is further agreed that the CITY shall defend, hold harmless and indemnify the COUNTY, its officers and employees from any and all claims for injuries or damage to persons and/or property which arise out of the terms and conditions of this contract and which result from the negligent acts or omissions of the CITY, its officers and/or employees.

8. **Insurance.** The County self insures civil liability claims up to \$100,000 per occurrence. Losses that exceed \$100,000 are covered by an excess insurance policy with limits up to \$25 million. The County also self insures workers compensation claims up to \$125,000 per injury. Losses exceeding \$125,000 per injury are covered by an excess insurance policy that provides statutory limits.
9. **Changes to the Contract.** The body of this contract and the attachments fully express all understandings of the parties concerned regarding all matters covered and shall constitute the total contract. No addition to, or alteration of, the terms of this contract, whether by written or verbal understanding of the parties, their officers, agents or employees, shall be valid unless made in the form of a written amendment to this contract which is formally approved and executed by both parties.

10. **Notices.** Any notice required to be given under this Agreement shall be in writing and will either be served personally or sent prepaid, first class mail. Any such notice shall be addressed to the other party at the address set forth below. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to CITY: City of Biggs
City Administrator
465 C Street / P.O. Box 307
Biggs, CA 95917

If to COUNTY: Manager, Building Division
Dept. of Development Services
7 County Center Drive
Oroville, CA 95965

11. **Assignment.** This contract is not to be assigned by CITY in whole or in part, without the express written consent of the COUNTY. This contract is not to be assigned by COUNTY in whole without the express written consent of the CITY. CITY acknowledges and agrees by execution hereof that COUNTY may sub contract portions of this agreement and/or hire a consultant entity to fulfill portions of this contract at the discretion of the COUNTY.
12. **Conflict of Interest.** COUNTY shall have no interest, and shall not acquire any interest, direct or indirect, which will conflict in any manner or degree with the performance of services required under this contract. This provision does not run exclusively to CITY; but rather it expressly also runs to those persons receiving services provided for herein. In the event a potential conflict arises, COUNTY will immediately advise CITY so that the potential conflict can be eliminated or avoided. CITY enters this contract upon the express representation that COUNTY may have other contracts in effect with CITY.
13. **COUNTY is not a designated employee** within the meaning of the Political Reform Act because:
- a. COUNTY will conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation, or counsel independent of the control and direction of the CITY or any CITY official, other than normal agreement monitoring; and,
 - b. COUNTY possesses no authority with respect to any CITY decision beyond rendition of information, advice, recommendation or counsel.
14. **Standard of Care.** CITY has relied upon the professional training and ability of COUNTY to perform the services hereunder as a material inducement to enter into this Agreement. COUNTY shall not have any other persons perform professional services under this Agreement without first obtaining the written approval of CITY. All work performed by COUNTY under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in COUNTY's field of expertise.
15. **Compliance with Laws.** COUNTY and CITY shall comply with all applicable federal, state and local laws, regulations and any other form of codified requirements in the conduct of this scope of work and conduct in accordance with this contract.
16. **Licenses.** COUNTY represents and warrants to CITY that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required of COUNTY to practice its profession. COUNTY represents and warrants to CITY that COUNTY shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, certifications, insurance and approvals which are required by the CITY for its business.
17. **Waiver.** Waiver of a breach or default of any part of this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this Agreement.

18. **Severability.** If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.
19. **Authority to Enter Agreement.** COUNTY has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.
20. **Applicable Law and Forum.** This Contract shall be construed and interpreted according to California law and any action to enforce the terms of this Contract for the breach thereof shall be brought and tried in the COUNTY of Butte.
21. **Entire Agreement.** This Agreement constitutes the complete and exclusive statement of Agreement between the CITY and COUNTY. All prior written and oral communications, including correspondence, drafts, memoranda, and representations are superseded in total by this Agreement.